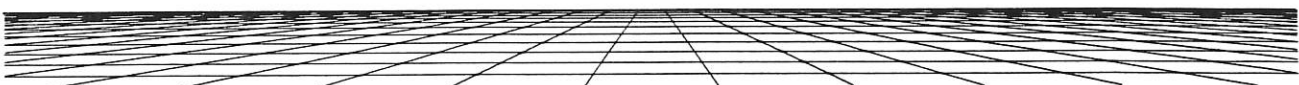


UTAH ASSOCIATION OF COUNTIES INSURANCE MUTUAL

Board of Directors Meeting



A G E N D A



October 19, 1995, 10:00 a.m.
Utah Association of Counties Offices
4021 South 700 East, Suite 180
Salt Lake City, Utah
801-265-1331

10:00	Call to Order	Gary Herbert
	Review of Board Members Absent	Gary Herbert
	Review and Approval of September 21, 1995 Minutes	Gary Herbert
	Beaver County Claim 801BEA957002	Gary Herbert
	Director's Report	Brett Rich
	November Membership Meeting Agenda	Board of Directors
	Member County Awards	Board of Directors
12:00	Lunch Break	
	Loss Prevention Report	David Nelson
	Brokers Report	Jess Hurtado Keri Chappell
	Review of August Financial Statements	Brett Rich
	Approval of 1996 Budgets	Brett Rich
	Litigation Management Committee and Claims Report	Kent Sundberg Doug Alexander
2:00	Adjourn	



UTAH ASSOCIATION
OF COUNTIES
INSURANCE MUTUAL

UTAH ASSOCIATION OF COUNTIES INSURANCE MUTUAL MINUTES, BOARD OF DIRECTORS MEETING

October 19, 1995, 10:00 a.m.
UAC Offices, Salt Lake City

Board Members Present:

Gary Herbert, *President*, Utah County Commissioner
Gerald Hess, *Vice President*, Davis County Deputy Attorney
Dennis Ewing, *Comptroller*, Tooele County Clerk
Robert Gardner, *Secretary*, Iron County Commissioner
Sid Groll, Cache County Sheriff
Ty Lewis, San Juan County Commissioner
Gary Sullivan, Beaver County Commissioner
Sarah Ann Skanchy, Cache County Council Member

Board Members Absent:

Ken Brown, Rich County Commissioner

Others Present:

Chad Johnson, Beaver County Commissioner
Kent Sundberg, Utah County Deputy Attorney
Brett Rich, Director, UACIM
David Nelson, Loss Prevention Manager
Doug Alexander, UACIM Claims Manager
Jess Hurtado, UACIM Broker
Keri Chappell, UACIM Broker
Sonya White, UACIM Administrative Assistant

CALL TO ORDER

Chairman Gary Herbert called the meeting to order and welcomed those in attendance.

REVIEW OF BOARD MEMBERS ABSENT

Ken "forgot" about the meeting today, therefore, Sid made a motion not to excuse Ken from this meeting. Gerald seconded the motion and the motion carried.

REVIEW AND APPROVAL OF SEPTEMBER 21, 1995 MINUTES

The minutes from the September 21 meeting were previously sent and reviewed by the Board. Gerald requested that under the 1996 Premium Contribution Rates the motion show Gerald and Bob voting nay to the motion to adoption the 1996 premium contribution formula. Brett requested that the Board revise paragraph eight of the Director's Report to read: *Brett and David have a tentative date outline and are in the process of scheduling training sessions, in conjunction with the county risk reviews, for the eleven large claim counties.* Dennis made a motion to approve the minutes with the above mentioned changes. Bob seconded the motion and the motion carried.

4021 SOUTH 700 EAST
SUITE 180
MURRAY

UTAH 84407
801-265-1331
FAX 801-265-9189

BEAVER COUNTY CLAIM 801BEA957002

Pursuant to the August 3, 1995, Board motion on the above referenced claim, the Board invited the Beaver County Commission and County Attorney to attend this meeting to discuss the County's questions and concerns regarding the Board's decision. Commissioner Chad Johnson

and Commissioner Gary Sullivan addressed the Board. Commissioner Johnson began by expressing his apology, on behalf of Beaver County, for the way this claim was handled. He continued by explaining the occurrences and concerns the County Commission had with this accident and with the individual(s) involved. The County Commission felt that their immediate action was necessary to avoid a law suit. The County is requesting that the Board of Director's consider reimbursing the county for \$3,000 toward the settlement of this claim. After lengthy discussion into the repercussions of this request, Ty made a motion for Doug, Jess and Brett to thoroughly review the circumstances surrounding this claim and determine the best way to accommodate Beaver County without setting a precedence. No refund will be issued to the County if it is determined that such a refund would set a precedence within the Mutual. Bob seconded the motion and the motion carried. Gary Herbert directed this matter to be resolved within the next week to ten days and to notify the County of their decision. Commissioner Johnson thanked the Board and requested to be excused from the remainder of the meeting.

DIRECTOR'S REPORT

Brett reported that the Board directed him to continue working with the Duchesne County officials to address their concerns regarding the surplus and eminent domain releases as well as their concerns regarding the refund amount due to the deletion of the county hospital from coverage. Brett spoke with Pat Stratton and the County Commission via teleconference and thoroughly explained the difference between the contributed surplus and the debenture loans and the reason why these releases were requested. Since their conversation, Brett has received the signed releases back from Duchesne County. Their discussion also included further explanation into the Board's decision on the hospital refund amount. Brett felt the officials understood this decision but later questioned their 1996 premium contribution of which the hospital appeared not to have made any difference in the amount. Brett contacted Keri who ran the premium calculations again which made a \$2500 (approximately) difference in their premium with the explanation that property is weighed at 5% of the contributed loss fund and liability is weighed at 95%. The Duchesne County Hospital was covered only for property. Brett's understanding of the Board's decision was that the refund was based on the amount equal to the County's contribution to the excess insurance and not for the expenses already used in the operation of the Mutual. Therefore, the entire amount attributed in 1995 for the hospital should be deducted from the 1996 amount. Ty made a motion for Brett and Keri to meet with the Duchesne County Commission and Pat Stratton to explain how their premium contributions for 1996 were calculated. If the County feels this is not a fair calculation then their concerns should be reported back to the Board. Dennis seconded the motion and the motion carried. Keri suggested that they request Duchesne County to justify their actual costs for the hospital before joining the Mutual. This may give the Board a perspective of exposure driven premium compared to loss driven premium.

Brett reported that the Board directed him to research the procedures in the event of insolvency. Brett passed to the Board a copy of the Insurance Code provisions § 31A-27-335 that reviews the criteria and priority used to distribute the assets of an insurance company in the event of insolvency, referring to § 16-6-70 for a non-profit organization. Regarding the priority among member counties and how it affects the debentures, Brett referred to Subsection 16-6-70 (4) which reads: "To the extent of the articles of incorporation or bylaws determine the distributive rights of members, or any class or classes of members, or provide for distribution to others, other assets, if any, shall be distributed in accordance with such provisions;". Brett's opinion is that it is the Mutual that would determine how the assets are distributed among the member counties. Ty made a motion for Brett to review the bylaws of the Mutual, as they relate to the debenture loans, for determination of the distribution of those funds in the event of insolvency. If the bylaws need to be revised for such a provision, Brett's recommendation is requested. Gary Sullivan seconded the motion and the motion carried.

Brett reported that he was involved with a meeting that was held with several Millard County officials, members of the Litigation Management Committee, Gary Herbert and others regarding the County's potential wrongful termination suit. The meeting was very beneficial in that the County further understands the role of the Mutual and how the Mutual can better serve them in all types of situations. A preliminary hearing, on the criminal case, is scheduled for December 7. The Board was also concerned about the ethics of Lynn Lund, who was contacted by David to consult Millard County with this personnel related issue. Brett has tried several times to contact Lynn with no success. He will continue his efforts.

ANNUAL MEMBERSHIP MEETING AGENDA

Gary Herbert confirmed that he will be out of the state during the annual membership meeting and requested that Gerald chair the meeting in his place. The Board reviewed a draft copy of the agenda for the November 8, 1995, Annual UACIM Membership Meeting in St. George. The Board completed the final agenda and assigned those who will be making presentations at the meeting.

MEMBER AWARDS

Last year the Board of Directors presented awards and certificates to member counties based on percentages developed by dividing the 1993 fund year loss history (as of 6/30/94) and 1993 pure loss fund contributions. These percentages did not include IBNR's, surplus or other expenses. The Board felt that these percentages did not effectively represent those low loss counties, therefore, Sonya presented to the Board the use of the three year *Trended Loss Ratio to Fund* such as evaluated as of 7/31/95 for those counties under 100% loss ratio. The Board agreed that this is a good way to recognize those counties with low loss ratios. Therefore, Sarah Ann made a motion to acknowledge those member counties under 100% loss ratio at the annual membership meeting and then make a formal certificate presentation in each county at the Commission/Council meeting. Sid seconded the motion and the motion carried.

LOSS PREVENTION REPORT

David previously sent his written report and attachments to the Board. He reported on his completed risk reviews in Garfield, Iron, Millard, Cache and Beaver Counties. David is waiting for responses to his risk review report from Duchesne, Uintah, Sevier, Wayne and Rich Counties. Responses were received from Tooele and Juab Counties. David completed loss prevention training for the Cache, Beaver and Millard County road departments and met with the Cache County Accident Review Board. David met with the Millard, Cache and Beaver County Commissions to discuss the risk review that he would be performing. Training videos on the Drug Testing Monitoring Process and Snowplow Safety are available and being used by the counties. UACIM and SWAP will be conducting Drug Testing training on November 9, at the St. George Hilton from 8:30 to 10:30 a.m. David prepared data for graphs showing claim frequency per year per county, claim severity per year per county and loss ratio per year per county compared to the Mutual. The Board directed David to use these graphs in his report at the Annual Membership Meeting. Dennis requested a graph showing claims compared to the premium contribution per county. David concluded his report by reviewing the information he and Brett will be using to conduct the training for the high loss counties.

BROKERS REPORT

Jess reported that he is in the process of working to bring the cost down \$15,000 on the TPA Budget. At the Annual Membership Meeting Jess will report to the members that since 1992 the Mutual has had approximately 1168 claims, of which 1001 are closed. There are 12 claims in 1992 that remain open, 32 claims in 1993 remain open, 61 claims in 1994 remain open and 62 claims in 1995 to-date are open. The majority of these claims that remain open are civil rights types of claims, seven in 1992, 18 in 1993, 18 in 1994 and 11 in 1995 to-date. These types of

claims have a tendency to hang around for a relatively long time. Jess will have the civil rights claims broken down by type for the members at the Annual Meeting. The Mutual is way ahead of the industry average for open claims (only 4% open for 1992) which usually has a 13 year tail on claims. Jess also stressed the importance of working hard to support the Governmental Immunity Statute of Limitations. The renewal information for 1996 is in the market place and negotiations for the 1996 attachment point are in process. Jess will be meeting with Bob Lund, National Union Senior Underwriter, in Chicago tomorrow. Pursuant to the request of National Union, AON hired Toplis and Harding to perform an audit on the 1992 and 1993 claims due to the penetration into the aggregate. That audit has been completed and submitted to National Union as a "clean" audit, no claims fell outside the perimeters of coverage.

Keri reported that her and Brett have been meeting with Morgan County to discuss their participation in the Mutual. The Commissioner's requested Keri to ask the Board if they would consider the County's coverage for liability to become effective November 1 and coverage for property effective July 1, due to the different effective dates of their present carrier. Also, their present carrier requires a 30 day cancellation notice to avoid any penalty. Ty made a motion directing Keri and Brett to relate the Board's decision to provide coverage for Morgan County effective November 1 for liability and July 1 for property, including eminent domain/inverse condemnation, keeping consistent with the Mutual's practices in the past. Also, the Mutual will not reimburse Morgan County for any cancellation penalty. Dennis seconded the motion and the motion carried. Brett added that they have also been working with Daggett County who is also interested in participation with the Mutual.

REVIEW OF AUGUST FINANCIAL STATEMENTS

As Director of the UACIM, Brett will review the Financial Statements with the Board this day forward. Brett began by expressing his concern that the Board has not been receiving the Statements prior to the Board Meetings. The Board agreed that they should review the Statements prior to each meeting in preparation for the meeting, therefore, the Statements will be sent to the Board in advance. Brett will prepare a summary of the Statements for review at the meetings showing loss trends, paid losses and reserves.

Brett reviewed the August Financial Statements beginning with the Balance Sheet. All member counties have paid their premiums and surplus contribution for 1995. Total Assets at \$4.468 million are down from last month at \$4.578 million, as the expenses of operating the Mutual continue through the year. IBNR Liabilities at \$599,500 for 1995 with the 1992, 1993 and 1994 IBNR's still affecting the Statements although the Mutual has reached the aggregate for these years. Inception to Date Open Case Reserves are at \$1.586 million and Interest at \$139,741 on the debenture loans. Brett will contact AON to clarify if the interest includes the one percent over the State Treasurers Fund for those loans. Total Surplus is at \$1.357 million. Brett has been researching the Insurance Code regarding the \$2.4 million requirement placed on the Mutual by the Insurance Department and has found that the Code requires an amount between \$1.7 and \$2 million. Jess suggested that the Mutual may want to reach the surplus required by the Code and then try to re-negotiate the requirement with the Department. Brett continued his review with the Losses Paid-to-Date for 1995 at \$316,026 and the Expenses at \$153,940 which are considerably below last year.

1996 BUDGET

Jess and Keri have been working on the line item amounts in preparation for the 1996 UACIM Budget and reviewed with the Board a draft copy of the budget. Brett reviewed the proposed 1996 Administrative Budget which had no changes from the 1995 adopted budget. Upon extensive review of the proposed budgets, Bob made a motion for Brett to prepare both the UACIM Budget and the Administrative Budget to be presented to the Board with the actual amounts paid for 1994 and 1995 year-to-date comparison, also to re-calculate the interest income and interest expenses and to provide an explanation of the continued amortization costs. The Board should receive a copy of the proposed budgets prior to the November 8, 1995, Board of Directors Meeting. Ty seconded the motion and the motion carried.

CLAIMS REPORT

Sarah Ann made a motion for the Board to go into executive session to discuss the Claims Report. Gary Sullivan seconded the motion and the motion carried.

Gerald made a motion for the Board to come out of executive session, Sid seconded the motion and the motion carried.

Dennis made a motion to authorize claim settlement for an amount up to \$45,000 on claim number 801WAT947004. Gary Sullivan seconded the motion and the motion carried.

OTHER BUSINESS

Gerald questioned why the Members of the Board and member counties had not been notified that Dean Bachman was no longer with AON. Keri explained that AON is in the process of conducting interviews for the claims service representative position. A temporary person is assisting Doug until the position is filled.

Brett reported that he drafted a proposal, for the LMC to review, regarding the use of defense counsel prior to a notice of claim. Revisions were made and the LMC approved the proposal. A copy of the proposal was given to each Board Member to review. If the Board has any questions they should be addressed before the November 8, 1995, Board Meeting so that the proposal can be approved and presented to the membership and the annual meeting.

The next meeting of the Board of Directors will be held on November 8, 1995, at 3:30 p.m. in Sabra A&B of the St. George Holiday Inn, to approve the 1996 budgets and the defense counsel proposal.

The last Board Meeting of the year is scheduled for December 14, 1995, at 10:00 a.m. in the UAC offices.

The meeting was adjourned.

LOSS PREVENTION REPORT

BY: David Nelson, Loss Prevention Manager

Utah Association of Counties Insurance Mutual
Board of Directors Meeting, October 19, 1995

RISK REVIEWS

Garfield County

The 1995 risk review was completed on August 30, 1995. The risk review report and recommendations were sent to Commission Chairperson, Louise Liston, on September 26, 1995. A copy of the report is attached.

Iron County

The 1995 risk review was completed on September 12, 1995. The risk review report and recommendations were sent to Commission Chairman Roy Urie, on September 26, 1995. A copy of the report is attached.

Millard County

The 1995 risk review was completed on September 20, 1995. The risk review report and recommendations were sent to Commission Chairperson, Lana Moon, on September 26, 1995. A copy of the report is attached.

Cache County

The 1995 risk review was completed on September 27, 1995. The risk review report and recommendations were sent to Council Chairperson, Sarah Ann Skanchy, on September 28, 1995. A copy of the report is attached.

Beaver County

The 1995 risk review was completed on October 3, 1995. The risk review report and recommendations were sent to Commission Chairman, Gary Sullivan, on October 5, 1995. A copy of the report is attached.

Duchesne County

A risk review was conducted in Duchesne County on August 1-2, and the report sent to them on August 18, 1995. A 30-day follow-up letter was sent on September 22, 1995, with no response received to date.

Uintah County

A risk review was conducted in Duchesne County on August 8-10 and 21, and the report sent to them on September 22, 1995. A 30-day follow-up letter was sent on September 22, 1995, with no response received to date.

Sevier County

On September 29, 1995, I made telephone contact with Steven Wall, Clerk-Auditor and Insurance Coordinator, who assured me that a response to the risk review was forth coming. I received a written response from Commissioner Tex Olsen on October 4, 1995.

Wayne County

On September 28, 1995, I made telephone contact with Sandra Rees, Clerk-Auditor and Insurance Coordinator, who assured me that a response to the risk review was forth coming.

Tooele County

On September 21, 1995, I received a written response to my risk review report.

Juab County

On October 3, 1995, I received a written response to my risk review report.

Rich County

A risk review was conducted in Rich County on July 5, 1995, and the report sent to them on August 1, 1995. A 30-day follow-up letter was sent on September 7, 1995, and a 60-day follow-up letter was sent on October 13, 1995. No response has been received.

TRAINING

Cache County

On September 26, 1995, I met with the Cache County Accident Review Board. We discussed the purpose, function and activity of the Board. On September 27, 1995, I met with the Cache County Road Department to conduct loss prevention training. A copy of the memo to the file and attendance list are attached.

Beaver County

On October 2, 1995, I met with the Beaver County Road Department to conduct loss prevention training. A copy of the memo to the file and attendance list are attached.

Millard County

On October 2, 1995, I met with the Millard County Road Department to conduct loss prevention training. A copy of the memo to the file and attendance list are attached.

MEETINGS

Millard County

On September 18, 1995, I met with the Millard County Commission (see attached memo to the file).

Cache County

On September 26, 1995, I met with the Cache County Commission (see attached memo to the file).

Beaver County

On October 2, 1995, I met with the Millard County Commission (see attached memo to the file).

OTHER

Purchased training video "Snowplow Safety". I anticipate to use the video this fall and winter at road department training.

Assembled Loss Analysis Pictorial and graph information for review by the Board of Directors.

distributions declared after it is filed, to the extent that it does not prejudice the orderly administration of the liquidation.

(4) Claims that are due except for the passage of time are treated as absolute claims, except that where justice requires the liquidator may discount them at the rate of interest available on United States treasury securities of approximately the same maturity.

(5) A guaranty fund or association may file a claim with the liquidator for all claims to which the fund has been subrogated.

(6) Claims made under employment contracts by directors, principal officers, or persons who, in fact, perform similar functions or have similar powers, are limited to payment for services rendered prior to the issuance of any order of rehabilitation or liquidation under Section 31A-27-303 or 31A-27-310.

(7) An insurer may not exercise any right of subrogation against an insolvent insurer's insured if exercise of the right would require the insured, or a guaranty fund under Chapter 28, to pay an amount the insolvent insurer is obligated to pay under an insurance policy issued to the insured.

History: C. 1953, 31A-27-330, enacted by L. 1985, ch. 242, § 32; 1986, ch. 204, § 242; 1995, ch. 344, § 35.

Amendment Notes. — The 1995 amend-

ment, effective May 1, 1995, substituted "Subsection 31A-27-335(2)(f)" for "Subsection 31A-27-335(6)" at the end of Subsection (2) and made a stylistic change.

31A-27-335. Priority of distribution.

(1) (a) Every claim in each class of claims from the insurer's estate shall be paid in full or adequate funds retained for the payment before the members of the next class receive any payment. Once the funds are retained by the liquidator and approved by the court, the insurer's estate shall have no further liability to members of that class except to the extent of the retained funds and any other undistributed funds.

(b) Subclasses may not be established within any class.

(c) No claim by a shareholder, policyholder, or other creditor shall be permitted to circumvent the priority classes through the use of equitable remedies.

(2) The classes and order of distribution are as follows:

(a) Class one is the costs and expenses of administration expressly approved by the liquidator, including:

(i) the actual and necessary costs of preserving or recovering the assets of the insurer;

(ii) compensation for all authorized services rendered in the supervision, rehabilitation, or liquidation;

(iii) any necessary filing fees;

(iv) the fees and mileage payable to witnesses; and

(v) reasonable attorney's fees and other professional services rendered in the supervision, rehabilitation, or liquidation.

(b) (i) Class two is the administrative expenses of guaranty associations.

(ii) For purposes of this section, "administrative expenses of a guaranty association" means the reasonable expenses incurred by a guaranty association when the expenses are not payments or expenses that are required to be incurred as direct policy benefits in fulfillment of the terms of the insurance contract or policy, and that are of the type and nature that, but for the activities of the guaranty association, otherwise would have been incurred by the liquidator, including:

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(A) evaluations of policy coverage;

(B) activities involved in the adjustment and settlement of claims under policies, including those of in-house or outside adjusters; and

(C) the reasonable expenses incurred in connection with the arrangements for ongoing coverage through transfer to other insurers, policy exchanges, or maintaining policies in force.

(iii) The liquidator may in the liquidator's sole discretion approve as an administrative expense of a guaranty association any other reasonable expenses of the guaranty association if the liquidator finds:

(A) the expenses are not expenses required to be paid or incurred as direct policy benefits by the terms of the policy; and

(B) the expenses were incurred in furtherance of activities that provided material economic benefit to the estate as a whole, irrespective of whether the activities resulted in additional benefits to covered claimants.

(iv) The court shall approve the expenses approved by the liquidator under Subsection (2)(b)(iv) unless the court finds the liquidator abused the liquidator's discretion in approving the expenses.

(c) (i) Class three is all claims under policies for losses incurred including:

(A) claims of the federal, state, or local government;

(B) third party claims;

(C) claims for unearned premiums; and

(D) claims of a guaranty association, other than those included in class two, including claims for payment of covered claims or covered obligations of the insurer.

(ii) All claims under life and health insurance and annuity policies shall be treated as loss claims.

(iii) That portion of any loss for which indemnification is provided by other benefits or advantages recovered or recoverable by the claimant are not included in this class, other than benefits or advantages recovered or recoverable in discharge of familial obligations of support, by way of succession at death, as proceeds of life insurance, or as gratuities. No payment made by an employer to the employer's employee may be treated as a gratuity.

(iv) Notwithstanding Subsections (2)(c)(i), (ii), and (iii), the following claims shall be excluded from class three priority:

(A) obligations of the insolvent insurer arising out of reinsurance contracts;

(B) obligations incurred after:

(I) the expiration date of the insurance policy;

(II) the policy has been replaced by the insured or canceled at the insured's request; or

(III) the policy has been canceled as provided in the chapter;

(C) obligations to insurers, insurance pools, or underwriting associations and their claims for contribution, indemnity, or subrogation, equitable or otherwise;

(D) any claim that is in excess of any applicable limits provided in the insurance policy issued by the insolvent insurer;

(E) any amount accrued as punitive or exemplary damages unless expressly covered under the terms of the policy; and

- (F) tort claims of any kind against the insurer, and claims against the insurer for bad faith or wrongful settlement practices.
- (v) Notwithstanding Subsection (2)(c)(iv)(B), unearned premium claims on policies, other than reinsurance agreements, may not be excluded.
- (d) Class four is claims of the federal government other than those claims included under class three.
- (e) (i) Class five is debts due employees for services, benefits, contractual or otherwise due, arising out of reasonable compensation to employees for services performed to the extent that they do not exceed two months of monetary compensation and represent payment for services performed within six months before the filing of the petition for liquidation or, if rehabilitation preceded liquidation, within one year before the filing of the petition for rehabilitation.
- (ii) Principal officers and directors are not entitled to the benefit of class five priority except as otherwise approved by the liquidator and the court.
- (iii) Class five priority shall be in lieu of any other similar priority that may be authorized by law as to wages or compensation of employees.
- (f) (i) Class six is claims of any person, including claims of state or local governments, except those specifically classified elsewhere in this section, or claims of attorneys for fees and expenses owed them by a person for services rendered in opposing a formal delinquency proceeding.
- (ii) To prove the claim for attorneys' fees and expenses, the claimant shall show that the insurer that is the subject of the delinquency proceeding incurred the fees and expenses based on its best knowledge, information, and belief, formed after reasonable inquiry indicating opposition was in the best interests of the person, was well grounded in fact, and was warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law, and that opposition was not pursued for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.
- (g) (i) Class seven is claims of any state or local government for a penalty or forfeiture, but only to the extent of the pecuniary loss sustained from the act, transaction, or proceeding out of which the penalty or forfeiture arose, including the reasonable and actual costs incurred from the act, transaction, or proceeding.
- (ii) The remainder of the claims shall be postponed to class eight claims.
- (h) Class eight is:
- (i) surplus or contribution notes or similar obligations;
 - (ii) premium refunds on assessable policies;
 - (iii) interest on claims of classes one through seven; and
 - (iv) any other claims specifically subordinated to this class.
- (i) Class nine is claims of shareholders or other owners, including policyholders of a mutual insurance corporation within the limits of Subsection 31A-27-337(4)(b) except as they may be qualified in class three or four.
- (3) (a) If the liquidator determines that the assets of the estate will be sufficient to pay all class one claims in full, class two claims shall be paid

currently, only after the liquidator secures from each of the guaranty associations receiving disbursements under this section an agreement to return to the liquidator the disbursements, together with investment income actually earned on the disbursements, as may be required to pay class one claims.

(b) A guaranty association entering into an agreement under Subsection (3)(a) may not be required to post a bond.

(4) As to a nonprofit corporation organized and operating under Chapter 7 with assets not fully liquidated under Subsections (1) and (2), the remaining assets shall be distributed under Subsections 16-6-70 (2), (3), (4), and (5).

(5) (a) If any claimant of this state, another state, or foreign country shall be entitled to or shall receive a distribution upon the claimant's claim out of a statutory deposit or the proceeds of any bond or other asset located in another state or foreign country, unless the deposit or proceeds shall have been delivered to the domiciliary liquidator, the claimant is not entitled to any further distribution from the liquidator until and unless all other claimants of the same class, irrespective of residence or place of the acts or contracts upon which their claims are based, shall have received an equal distribution upon their claims.

(b) After the equalization under Subsection (5)(a), the claimants of the same class are entitled to share in the further distributions by the liquidator, along with and like all other creditors of the same class, wherever the claimants reside.

(6) Upon the declaration of a distribution, the liquidator shall apply the amount of the distribution against any indebtedness owed to the insurer by the person entitled to the distribution. There shall be no claim allowed for and deductible charged by a guaranty association or entity performing a similar function.

History: C. 1953, 31A-27-335, enacted by L. 1985, ch. 242, § 32; 1992, ch. 203, § 23; 1995, ch. 344, § 36.

Amendment Notes. — The 1995 amendment, effective May 1, 1995, substantially rewrote this section.

31A-27-335.5. Health maintenance organization claims.

In the liquidation of a health maintenance organization, claims for uncovered expenditures have priority over the third class of claims as provided for in Section 31A-27-335. All other claims shall follow the priority of distribution outlined in Section 31A-27-335.

History: C. 1953, 31A-27-335.5, enacted by L. 1990, ch. 170, § 2; 1995, ch. 344, § 37.

Amendment Notes. — The 1995 amendment, effective May 1, 1995, substituted "Section 31A-27-335" for "Subsection 31A-27-335(3)."

PART IV

INTERSTATE RELATIONS

31A-27-410. Subordination of claims for noncooperation.

If an ancillary receiver in another state or foreign country, whether called an ancillary receiver or not, fails to transfer to the domiciliary liquidator in Utah any assets within his control other than special deposits, diminished only by the expenses of the ancillary receivership, if any, then the claims filed in the ancillary receivership or with the guaranty fund or association in that

PROPOSAL FOR USE OF DEFENSE COUNSEL PRIOR TO NOTICE OF CLAIM

UACIM recognizes that controlling losses in the member counties is most effectively achieved by recognizing potential loss situations and working proactively to prevent or minimize those situations. Part of a proactive approach to loss control includes providing the best possible advice to member counties at the earliest possible time. To that end, UACIM shall implement the following program to provide counsel from specified defense counsel on a limited basis, to advise member counties through UACIM on matters of substantial potential impact to the members and the mutual, such as wrongful termination, sexual harassment, employee discipline, etc.

The following program shall become effective on October 20, 1995:

- I. The UACIM director, with the assistance of the UACIM litigation Management Committee, shall compile a list of defense attorneys specializing in areas of the law where UACIM is experiencing, or according to the broker's projections may experience substantial losses.
- II. A description of the program shall be sent to each member county attorney and member county commission/counsel/ county executive and to each defense attorney expected to participate in the program.
- III. UACIM shall develop a request form for ease of implementation and use of the program.
- IV. \$10,000 shall be included in the UACIM budget to fund this program
- V. The director shall report each consultation or case referral to the Litigation Management Committee.
- VI. The program shall operate within the following parameters:
 - A. Each request for a consultation or case referral must be requested by the member county attorneys office, or by the county commission/council/county executive after consultation with the county attorney 's office. Each such request shall be made only after the member county attorney has reviewed the matter that is the subject for a request for consultation or case referral and has approved the request.
 - B. For each approved consultation or case referral, both the county and the defense attorney must receive authorization in writing from the UACIM Director, which shall include:
 - 1- name of the county
 - 2- name of the person requesting the consultation or case referral,
 - 3- name of the defense attorney to be consulted with,
 - 4- amount of time authorized by UACIM director, and
 - 5- scope or type of service approved to be provided (i.e. number of hours or amount etc.)

- C. All correspondence shall be through the UACIM Director;
- D. The County Attorney's Office shall receive copies of correspondence;
- E. The defense attorney who is consulted with in a pre-notice of claim capacity shall not be the attorney for the member county, but rather shall represent the UACIM in an advisory capacity. All advice provided by the defense attorney shall be passed to the member county through the UACIM;
- F. If the approved consultation or case referral requires an additional number of hours or dollar amount beyond those approved by the UACIM Director, the member county will be required to submit an additional request for a consultation or case referral. A member county that exceeds the approved expenditure of time or approved dollar amount shall be required to reimburse the UACIM for any such excess charges.

NOTE: This program is intended to assist, not replace or in any way circumvent the local county attorney's office. Again the goal of the program is to provide a valuable service to mutual members which will allow action based on current legal standards.

Ken "forgot" about the meeting today, therefore, Sid made a motion not to excuse Ken from this meeting. Gerald seconded the motion and the motion carried.

Minutes

Gerald requested that the minutes of the September 21 meeting reflect those names of who voted nay to the adoption of the 1996 premium contribution amounts. Gerald and Bob voted nay.

Brett requested that the minutes be revised on page two second paragraph from the bottom to state that Brett and David are in the process of scheduling the training meetings in the counties and have a tentative agenda to visit those counties before the end of this year. Dennis made a motion to approve the minutes with the above mentioned changes. Bob seconded the motion and the motion carried.

Claim 801BEA957002

Commissioner Chad Johnson attending the meeting to discuss the Board's decision on claim number 801BEA957002. On behalf of Beaver County, Commissioner Johnson apologized to the UACIM for the way this claim was handled. I know this was not handled the way the system is set up but it was handled to the comfort of the county commission based on the individual that was involved in the accident. We had an accident where a lady skid off the road while the county was in the process of doing a chip and seal project. The road foreman reported to me two hours after the accident and indicated that he was negligent. Because of the individual involved who the county officials know fairly well, the commission felt very comfortable that had we not handled the incident the way they did it would have been a quite lengthy litigation so the county settled the claim, which may have been for substantially more than what the UACIM would have. Chad gave some examples of what type of people they are. What the county is asking today is that the Board consider reimbursing the county for \$3000, \$1000 less than the reserves were set as which is a small percentage of what the county settled for. The accident occurred on June 30, the county notified Doug Alexander on July 5, Doug assigned Frontier Adjusters on July 10 who reported back to Doug on July 14. The damaged vehicle was a 1980 Cadillac appraised at \$1650. Gary Sullivan, one of the Commissioner's called the person who was involved who asked why it had taken them so long to call them, which was less than a week. Other officials were pressuring the commission asking why they hadn't settled with this guy because of the possibility of a lawsuit. Officer on the scene requested three times for the individual to go to the hospital but she refused and insisted that they take her to work. Chad: we as the county commission have the authority, based on the circumstances, to make those kinds of decisions, what we are asking for is what the commission feels to be a fair settlement of that decision, what UACIM's costs may have been. Ty: would hope that as an insurance board, I know we have the guidelines, but no one knows their constituents better than the people that are representing them as officials, I would hope that UACIM would have the flexibility that if the officials see something, they know those people better than we do. Hope we have some kind of flexibility in dealing with this matter. Dennis agreed with Ty, UACIM is in a predicament because we don't want to be setting a precedence, so I am very cautious about that but I also feel that the commissioners were in a spot that they feel like they were able to rectify the matter. Give the benefit of the doubt to the commissioners they were there and they were calling the shots. Bob also agrees but would have been appropriate to contact Doug and let him know that they were going to need to settle this matter immediately for the benefit of Doug's input. We should figure out what we feel it would have cost to resolve this matter and refund that to the county. Jess: my concern is not so much this particular case but the next one down the road in any county that may be a substantial amount more and the precedence has been set, and the county sues the UACIM for bad faith. Be careful in the way you handle this matter, if you think you can handle it perceptively, internally that fine but you then set a precedence that could cause you another problem down the road. Another concern is an audit for the aggregate when the policies specifically excludes that, UACIM could not use that as a reportable amount to the excess carrier. This does not fall under the scope of the policy. Terminology about how claims handled. The company shall have the right and opportunity but not the obligation to be associated with the named insured or a participating county member county in the defense of any claims, suits or proceedings relative to an accident covered under this policy and the named insured or a participating member county and the company shall cooperate to the fullest extent possible. Gary H. concern we have in circumventing the process we end up getting ourselves in a bigger hole down the road from the standpoint of this Board's responsibility to direct the Mutual that is what we need to avoid. I would look to our attorneys as well as the good common sense of this Board is there a way we can satisfy Beaver County and their needs and not set some type of precedence for the future. Rely on your council. Kent the commission has the discretion to make these kinds of decisions but must accept the responsibility of that decision. Good about the Mutual that the county has input to Doug's and the Board's decision, but feels it does not give the commissioner's the right to settle for whatever they think is appropriate

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unless they want to pay that out of the county budget. Ty: when a precedence is set that's it. Kent: the litigation Management Committee was unanimous in strongly opposing any payment to Beaver County at this point, we feel bad and we understand their situation but felt that they treated this claim as though they were self-insured or uninsured and handled the claim in house and two afraid of setting a precedence. The county did obtain a release form from the claimants prepared by the county attorney releasing the county from any and all liability. Doug did not remember being contacted about the release. Sid: feels there needs to be some consideration to help the County. Chad: the county understands the Board hesitance. We feel comfortable having the Board look at a way to handle this without creating a precedence, if you don't that's fine. Brett: we need to understand what the purpose of these procedures are and how something like this can be devastating to the Mutual in more than one respect, but I see that not just the precedent but we could have counties settling claims for allot more than Doug can be settling them for, this is what Doug has done for 20+ years, settling insurance claims. We have a very good record in settling these claims and keeping our losses down. Maybe even more important is the effect that it may have on our structure in counting these claims toward the aggregate. Potentially if the Mutual pays \$3000 this could end up being double that amount, because if we get into the aggregate insurance the company would deduct that amount receivable under the excess. Doug: excess has the right to contest/question any claim the Mutual pays toward the aggregate. Bob: helpful in a membership as to what is appropriate to say to a person who has been involved in an accident with the county. Also, if there is an emergency situation that the county feels must be settled immediately that Doug be notified of the urgency to give the county direction. Ty made a motion for Doug, Jess and Brett to review this situation and determine what the best way to accommodate Beaver County will be without setting a precedence. If they find there is no way around this, no refund will be issued to the county. Bob seconded the motion and the motion carried. Gary H. resolve within the next week or ten days and let the county know their decision. Chad thanked the Board for their time and left the meeting.

Director's Report

Brett reported that the Board directed him to work with the county officials in Duchesne County in understanding the releases sent to them and also to work with them concerning the amount refunded to them when the hospital was taken off of coverage. I spoke with Pat Stratton and the County Commissioners explaining the releases and what the intent of the contributed surplus is and how it was different from the debentures and also why these releases were sent out, that being that when the insurance commission had conducted their review, they had asked for the releases as a clarification as to what the Mutual's official policy is regarding the surplus and the inverse condemnation fund. They seemed okay after our discussion during the commission meeting. Since then we have received both the signed releases from Duchesne. I also spoke to them regarding the amount refunded due to the hospital. They had a problem because the county was expecting a larger amount to be refunded. During our last conversation I feel they do understand the Board's decision and that the major portion of their premium is not for property coverage but for liability coverage. Pat called me again last week expressing that she did not think that we had considered the hospital taken off when setting the 1996 premiums and in looking at the premium I found that taking the hospital off it didn't make any difference. Keri ran the figures again with approximately \$2500 reduction. Uncomfortable that they have taken the hospital off and it hasn't made any difference in their premium. Keri: when property and liability are weighed, property is 5% and liability is 95%. This concept is hard to grasp. According to the loss sensitive formula adopted by the Board the refund was based on the amount equal to their contribution to the excess insurance. The \$2500 was based on the fact that we are not going to recover their premium contribution to excess. That was the basis but we were also considering that we had already spent the amounts paid for expenses (administrative, etc.) been operating for eight months couldn't refund all that was attributed to the hospital for 1995. That is where Brett has a problem because we are saying that the amount that we refunded was not the total amount attributable to 1995 but it is the total amount attributable to the hospital for 1996. Then the whole portion attributed in 1995 should be deducted from 1996. Ty made a motion for Brett and Keri to meet with Duchesne County and explain again how their premium contributions were calculated and get a feel for what the county expects and report back to the Board. Dennis seconded the motion and the motion carried. Keri suggested that they have Duchesne County to justify their actual costs on the hospital before they joined the Mutual in 1991. If they could look at that then maybe the Board would want to look at that.

The Board directed Brett to research what the procedures would be in the event of insolvency. This arose because of the questions about the policy statement that went out. I have not met with anyone from the Insurance Department on this and I guess it was intentional. I was concerned about going to the Insurance Commissioner asking how do you allocate our surplus in the event of insolvency, I didn't want to allow any opportunity for speculation about problems with the Mutual. Brett reviewed the Insurance Code and passed a copy to the Board. The Code provisions that deal with distribution of assets

in the event of insolvency. 31A27335 goes right through what criteria they use in distributing the assets of an insurance company if they go insolvent. They go right through what the priority is. If it is a non-profit organization then you refer to 16670 which again outlines, basically what both of these say, first of all your going to take out the court expenses and liabilities and obligations of the corporation. Then you go into assets and it talks about different assets and the obligations that are held on them. The important part to me and what I perceive as the concerns of the Board, which was who has priority among the member counties and how it affects the debentures. 166704 that says "to the extent of the articles of incorporation or bylaws determine the distributive rights of members or any class or classes of members or provide for distribution to others or assets if any shall be distributed in accordance with such provision". So I think it is the Mutual to a large extent that would determine among the member counties how those things are distributed because I don't see that those assets would be assets covered by two or three. Ty made a motion for Brett to review the bylaws as they relate to the funds that were put up to start this company that they might have some kind of distribution of those funds either in settling claims or giving money if we become insolvent and bring a recommendation before the Board. Gary Sullivan seconded the motion and the motion carried.

The Board directed Brett to continue to work with Millard County on their situation with a potential wrongful termination suit and to look into the ethics of Lynn Lund. I met with Millard County and the county attorney has filed charges against the employee stating that the charges are legitimate and that charges will be filed and prosecuted. Allot of good in the meeting as far as public relations helping them understand the role of the Mutual and how we can better serve them in cases like this. We got some good advice to them and the feeling being that a lot of what is going to happen to the employee depends on what happens in their preliminary hearing on the criminal case which is scheduled for December 7. I have not been able to get hold of Lynn Lund after several attempts. Allegations against him are that Millard County contacted David for advise on this issue. David contacted Lund and requested him to meet with the County Commission and attorney's office, which he did and basically got information on the case. The allegation now is that he has been advising the employee in an unofficial capacity, which is in violation of the code of conduct. If this is the case the Mutual will no longer use Lund's services as well as the attorney's obligation to report him to the Bar. David: when Lund found out who the employee was he backed out. Gary H. county has problems with personnel manual. Brett: the Loss Prevention Personnel Committee is meeting on November 3 and a majority of the discussion will relate to the personnel manuals and the need to update them and draw up some guidelines that member counties can look at. There are some real deficiencies.

Gerald questioned that when the Davis County Insurance Coordinator called the AON office, she was told that Dean Bachman was no longer with the company. Doug confirmed this. Gerald stated that it would be helpful for the Board to know when these personnel changes occur. Keri explained that AON is in the process of conducting interviews for this position. Doug noted that there are two possible applicants they are looking for. A temporary person is now working with Doug. She has seven years experience in the insurance industry.

Membership Meeting Agenda

Gary H. will be out of state during the membership meeting and requested that Gerald chair the meeting. The Board reviewed a draft copy of the agenda for the November 8, 1995 annual membership meeting in St. George. The Board completed the final agenda and assigned those who will be making presentations at the meeting.

Member Awards

Last year awards and certificates were given to member counties based on percentages developed by dividing the 1993 fund year loss history (as of 6/30/94) and 1993 pure loss fund contributions. These percentage did not include IBNR's, surplus or other expenses. The Board felt that these percentages did not effectively represent those low loss counties, therefore, Sonya presented to the Board the use of the Trended Loss Ratio to Fund such as evaluated as of 7/31/95 for those counties under 100% loss ratio. The Board agreed that this is a good way to recognize those counties doing well. Therefore, Ann made a motion to acknowledge those member counties under 100% loss ratio at the annual membership meeting and then make a formal certificate presentation in each county at the Commission/Council meeting. Sid seconded the motion and the motion carried.

Loss Prevention Report

David previously sent his written report and attachments to the Board. He reviewed his report, David completed risk reviews in Garfield, Iron, Millard, Cache and Beaver Counties. The Burr Trail road in Gardfield County which recently had some

severe accidents in one particular turn and this was discussed with the county and changes will be made. David is waiting for responses to his risk review report from Duchesne, Uintah, Sevier, Wayne and Rich Counties. Responses were received from Tooele and Juab Counties. David met with the road departments in Cache, Beaver and Millard Counties for loss prevention training as well as the Cache County Accident Review Board. David met with the Millard, Cache and Beaver County Commissions to discuss their risk reviews he would be performing. Training videos on Drug Testing monitoring process being used by the counties. Also, purchased Snowplow Safety video available for the counties use. On November 9, in St. George from 8:30 to 10:30 UACIM and SWAP will be conducting training on Drug Testing discussing the practical aspects as well as the legal aspects. David derived information from the loss expenses as well as the reserves and total claims experience to prepared data for graphs showing claim frequency per year per county, claim severity per year per county, loss ratio per year per county compared to the UACIM as a whole. The Board directed David to use these graphs in his report at the Annual Membership Meeting. Severity follows frequency. Dennis: make chart showing claims compared to the premium county paid. David: maybe Jess could prepare that. David: County training will include material taken from the safety manual for two hours, commissioners, attorney, sheriff, insurance coordinator and dept. heads.

Brokers Report

Jess is in the process of working on the TPA Budget and getting it finalized, basically brought the cost down \$15,000 but I am still working on that. I am trying to get an approval on my particular piece of it on the budget.

Down in St. George, I think it represents what we are trying to accomplish in the Mutual. Since 1992 we have had approximately 1168 claims, of those claims we have 1001 closed, 85%. 1992 has 12 claims that remain open, 1993 has 32 claims and in 1994 has 61 claims and 1995 to date 62 claims still open. The thing that I find most interesting as I go through the claims that are still open which are indicated for the potential of these types of claims is civil rights. Seven claims open in 1992, 18 in 1993, 18 in 1994 this is something we need to pay special attention to and I have been talking to Dave, for 1995 we have 11 claims to date in the civil rights arena but they have the tendency over all claims to not go away and then hang around for a relatively long time. Jess will have all the civil rights claims broken down by type by the St. George meeting. For the Mutual to have only 4% of their claims open for 1992 is way ahead of the industry averages. There is usually a 13 year tail on claims. The things that we always need to keep in mind that fall outside of the Mutual is that everyone work hard to support the Governmental Immunity Statute of Limitations issue because that is what keeps us from joining the rest of the crowd in these particular areas.

The renewal stuff should be finished in a relatively short amount of time, we are in the market place and we should be getting that stuff back. The attachment point for 1996 has not been determined, we are in the process of negotiations. Jess will be meeting with the Bob Lund senior underwriter for National Union tomorrow in Chicago. The attachment point for 1995 was set at \$2.3 million and Jess is requesting this amount to be lowered, however, Jess would be happy to see it stay at \$2.3. National Union asked Toplis and Harding to perform an audit for 1992 and 1993 because of the penetration into the aggregate to make sure all claims that were filled fell under coverage issues. That audit was completed and submitted to the carrier but there were no claims that fell outside the perimeters of coverage so it was a clean audit, a credit to Doug and the people that work with him.

Keri and Brett have been meeting with Morgan County to join the Mutual. They are quite interested but they asked Keri to ask the Board the following question. ULGT has several different effective dates for their coverage, they have a November 1, liability renewal date and they also have a July 1 renewal date for their property. Morgan County has asked if the Board would consider, rather than the county paying a penalty for cancellation, they wondered if the Board would consider letting the liability come on November 1 and the property come on July 1. In the budget the Board did have monies set aside to pay some of those short rate cancellations and last year the Board moved that money away. They were set aside at start up. Any downside? Jess and Keri both felt there was no downside. Morgan also will pay eminent domain. ULGT wants a 30 day notice and we are past that, so we could have some problems there, so that is why I threw out that the Board may want to possibly pay a prorated penalty for them. The amount would be approximately 10% of the counties premium. The loss ratio is pretty good. \$65,000 in premium. Ty made a motion for Keri and Brett to work out the details with Morgan County to bring them into the Mutual for liability and then property consistent with what has been done in the past with other counties and that no cancellation penalty will be paid. Brett: Daggett is also interested. Dennis seconded the motion and the motion carried.

Financials

Brett began by asking the Board if they would like to receive the financial statements prior to the Board meetings for review. As Brett began to review the financials, I think it takes a lot to get through them and understand what they say. When I was trying to decide what to say about these financials to you and trying to dig out what are the most pertinent parts and are we really going to go through each sheet. Ty: just go through the trends. Brett: were this is a corporation the Board members would be receiving the financials several days in advance. Jess, the financials should be to you a week before the Board meeting. The Board agreed that the financials should be sent to the Board members prior to the meeting for their review and preparation for the upcoming meeting. The Board members will bring the copy sent to them to the meeting therefore not having to spend most of the Board's time going through the financials but answering questions and concerns and reviewing trends. Brett: the Board needs a good working knowledge of where the Mutual is financially. Ty: Brett summarize at the meetings. Brett began his review of the financials starting with the balance sheet. Most important in his mind is where we are with premiums and contributions to surplus we are apparently very good because we are at 0, all of the counties have paid their premiums and surplus contributions for the year. Loss recoverable, subrogation's and recoveries at \$28,000, prepaid expenses at \$110,000, compared to last month of \$86,647. Assets totals are down from last month \$4.578 million to this month \$4.467 million as we go through the expenses of operating the mutual. Down to the liabilities, IBNR at \$599,445 for 1995 only, there is still IBNR's out there and we are still affected by them but we wouldn't be responsible for it because we have hit the aggregate for 1992, 1993 and 1994. IBNR's based on what is happening in the industry and based on what our loss history is and what the rate of losses are in 1995 compared to the reserves that we have set. Open case reserves at \$1.585922 million, that is inception to date. Interest \$139,741 the interest on the debenture loans but the Board was concerned where it shows the 1% over the state treasures fund rate that is owed. Brett will look into that. Continuing the unassigned funds is the amount of the contributed surplus the \$1.7 million that has been used in paying our losses, because we don't have \$1.7 million in surplus, so to get our surplus figure, you have to take the \$1.757 million plus the \$620,000 minus the \$1.020 million arrive at total surplus \$1.356 million. We are trying to get to \$2.4 million because of the insurance department requirement. Jess: if you read the code the requirement is somewhere between \$1.7 and \$2 million. We are going to debate this issue in a hearing with the insurance department. Gary H. conversation with Box Elder County who is concerned because a local agent is telling them that the Mutual is in financial trouble. Brett: it is a problem because when you read the code I don't see how anyone could read that code and come up with a \$2.4 million required surplus, one problem is what we have is \$1.3 million which is probably not what we would be required to have under any reading of the code. Jess: politically since the Mutual is making money each year they grant you a waiver of some type and give you a time frame. Get up to the code and then go to the insurance department. Dennis: keep in mind that Box Elder is being hammered by the same broker as Tooele, if Box Elder can just hold off to see what happens in Tooele, tell them it might save them \$10,000 to have an independent risk evaluation, bid process the whole works for the county, especially if the Mutual is successful, which I feel we will be, you can say see Tooele has the answer. Brett: the only other thing I would like to point out is that we are down considerably with our losses from where we were one year ago. Losses paid for the eight months of 1995 of \$316,026 and our expenses of \$153,940, considerably below last year with our losses paid and our reserves. Gary H. good for me, trends are the key for me, possible to see where the losses are trending as I compare those numbers as opposed to fight through all the different pages, hard for me to follow. Losses paid, reserves and IBNR's, things that may raise a red flag. Brett will prepare a chart for the Board meetings.

Gerald: a case settled for \$7500 and expenses incurred to defend the claim, now that is over and done, 1993 claim, we should see for that year that the reserve is reduced and that money should now go into that money showing we have more for claims. Jess: actually if the aggregate has been penetrated then it is money that wont be paid by National Union. Our loss fund in 1993 was \$1.1 million, if we have spent that on our losses and there is \$70,000 that would come off the payment we reserved for a claim it doesn't come back into our money if we have already spend the \$1.1 million, it just comes off the total they would be writing us a check for. But if the aggregate has not been reached you are right. Gerald: we have reserved conservatively and as we have paid these claims out, we reserved high, we haven't paid it, that money should come back into the loss fund, but if we have actually gone through the aggregate then its the amount of money they pay us back it is just for dues. This does help your loss experience.

1996 Budget

Jess: generally this budget is prepared by the Board, but Keri worked to get a draft for the Board to review, this is our representation of your budget based on last years budget and some changes that we saw in checking on different expense items. Keri: Jess and I had the most changes so that's why I took it over. We do not have excess but we are talking about our expenses. Jess: I brought down some of our expenses this year and I am still in the process of negotiating. Gerald,

helpful to have the current year numbers, Sonya: in your board manual. Two budgets are adopted Administrative and UACIM Budget. Jess: it is less than last year but you are dipping into your surplus right out of the starting gate. That is a negative number that affects your bottom line surplus. Keri: our total income and surplus is higher, last year we predicted \$123,000 this year we are at \$327,000 we are making some progress. Total contributions approved by the Board at the last meeting, your investment income based on 5.5%, loss and loss expenses are based on the loss pick that Keri showed last month, projecting \$2,075,000 for total losses and we break that out into paid losses, open loss reserves and IBNR (most of that is in IBNR). Big jump from last year, we didn't have the actuarial number, we were doing budgets before we had actual loss pick numbers, we were late last year in getting those numbers and rates done, that is what I'm thinking. \$2 million is much more realistic. I have thrown the excess insurance, based on the existing rate your paying now and the exposure numbers that we have I was able to predict \$465,000 if we manage to keep the rates the same. Last year we paid approximately \$424,000. We only budgeted \$375,000 last year. Brokerage commissions we are working on, we would like to see that go down, but we couldn't put the number in there yet. Pool administration is staying the same as last year. Amortized start up costs has gone down, last year we budgeted about \$10,000, this year it's \$7000, these are costs that the association (UAC and the Mutual) has amortized through the pool. It is association money, I don't know where that goes. *****The Board wants a description of the amortization start up costs, what agreement?***** Keri: threw in E&O Insurance this year, the Board needs to look at E&O insurance for the Board of Directors and the UAC employees. She is working on that, was hoping to have the numbers, what I am working on is a joint E&O and D&O policy for UAC, UACIM and the MCAT Board. By doing that you share in the costs and we can do individual policies but it will cost each group a lot more money. Or we can do the one policy with a \$1 million occurrence but we will look at a higher aggregate amount like \$5 million or \$10 million, when I get those numbers I will go over them with Brett and Brent. If you choose not to purchase it, okay. The audit with Coopers and Lybrand same as last year. Annual audit of financials part of the filing. The legal is something we put in last year because we were meeting with the insurance department and we thought we might need the services of Susan Griffiths we did not end up using that. I lowered that to \$5000. Monies not used will be re-allocated to other over costs. Reduces the negative net income. Accounting for AON Services stays the same. Last year we had consulting expenses for the same reason we thought we would need some input with the insurance department. I took that out because we didn't use it. The interest expenses is 1% over to pay the notes. Less than budgeted last year? Yes, last year we budgeted \$84,000 and this \$55,000 is more of an actual number. On the revenue side investment income is that all the money we have in the bank including the debenture money? The pool is paying that 1% over the state treasurers rate. Brett: either this figure needs to come down or it needs to be offset in the revenue. Gerald: to me that would make that negative net income figure better. Keri and Jess will recalculate it. Gerald: the debenture money is sitting there and it is earning approximately 5% and when we pay the county back we are going to have to pay the county back the 5% that it has earned plus 1%. It is that 1% that I'm wondering how much are we really going to have to pay back. The Board discussed going to the counties to re-negotiate the 1% but the Board did not take any action. *****Board wants it on the next Board meeting agenda*****. Gerald if we have budgeted excess insurance of \$465,000 and it ends up costing \$475,000 do we have to come back and amend the budget to we ever get to see what was spent. The administrative budget last year included a full time Director for all of 1995, Brett wasn't hired until later in the year. That may be the reason the budget is staying the same although rent is increasing. Bob made a motion for Brett to prepare both budgets to be presented listing the actual amounts paid for 1994 and 1995 YTD compared to the adopted budgets for those years so the Board knows how much is spent per line item, recalculation of the interest income and interest expenses and purpose of the continued amortization costs and the Board will receive a copy of these budgets prior to a scheduled Board meeting for November 8, 1995 at 3:30 in St. George. Ty seconded the motion and the motion carried. Brett's responsibility to present the UACIM Budget not AON's. Other Expenses (loss fund analysis) AON has been figuring those loss picks last year and this year at no cost, we budgeted for it in 1996 if the Board decides to go outside for this service.

Litigation & Claims

Sarah made a motion for the Board to go into executive session to discuss the Claims information. Gary S. seconded the motion and the motion carried.

Gerald made a motion for the Board to come out of executive session, Sid seconded the motion and the motion carried.

Dennis made a motion to authorize claim settlement for an amount up to \$45,000 on claim number 801WAT947004. Gary Sullivan seconded the motion and the motion carried.

Other Business

Brett: we spoke about a proposal for the use of defense council prior to a notice of claim, I spoke with the LMC regarding this and spoke to the Board a little at the last meeting and I was to go back and draft a proposal as to how this would work and the perimeters it would be used in and I got this to Kent who circulated it to those on the LMC, they came back with some revisions and I have incorporated them in to the proposal. I want to present this to the Board for consideration. These types of actions where there may be the potential for a large claim but no notice of claim filed. UACIM would be the potential defendant. Just trying to be proactive in reducing the number of claims and reducing the potential impact of those claims. We were initially using Lund but there was no actual written procedure, this will formalize and help keep control of it so that we know what's happening and that we are getting the maximum benefit from it. The LMC has approved the proposal. Brett would like to present it at the membership meeting. The Board received a copy to review and approve at the November 8 Board Meeting.

Next meeting November 8

Next meeting December 14, 1995, at 10:00 a.m. UAC.

adjourned.

